MONTANA LEGISLATIVE HISTORY

Chapter 431 19 81

Bill H 684 S _____ Original bill & history ✓ C

H. Committee on State Admin			S. Committee on State Admin		
Hearing Date(s)	2/16	✓ C	Hearing Date(s)	Mar 6	✓ C
		C			C
		C			C
		C			C
Date Out	2/16	✓ C		3/10	✓

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

HEARING: 2/17
BILL DIED IN COMMITTEE

HB 683—FAEREGA, P. BROWN, BERGENE, ET AL—TO REVISE AND CLARIFY THE LAWS RELATING TO BALLOT ISSUES....
FISCAL NOTE: REQUIRED
INTRODUCED: 2/7
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 2/7
HEARING: 2/13
REPORT: DO PASS AS AMENDED, 2/16
2ND READING: 2/20, YEAS: 92; NAYS: 0
3RD READING: 2/24, YEAS: 99; NAYS: 0

TRANSMITTED TO SENATE: 2/24
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 3/2
HEARING: 3/9
REPORT: 3/26, BE CONCURRED IN, AS AMENDED
2ND READING: 3/31, BE CONCURRED IN
ON MOTION, 3/31, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 3/31, YEAS: 46; NAYS: 0

RETURNED TO HOUSE WITH AMENDMENTS: 3/31
2ND READING: 4/9, YEAS: 91; NAYS: 0
ON MOTION, 4/9, RULES SUSPENDED AND PLACED ON 3RD READING.
3RD READING: 4/9, YEAS: 91; NAYS: 0

TRANSMITTED TO GOVERNOR: 4/16
ACTION: SIGNED, 4/21
CHAPTER 488

HB 684—LORY—TO TRANSFER THE LICENSING AUTHORITY OVER NEW MOTOR VEHICLE MANUFACTURERS, DISTRIBUTORS, AND IMPORTERS FROM THE DEPARTMENT OF BUSINESS REGULATION TO THE DIVISION OF MOTOR VEHICLES.
FISCAL NOTE: REQUIRED
INTRODUCED: 2/9
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 2/9
HEARING: 2/16
REPORT: DO PASS, 2/16
2ND READING: 2/21, YEAS: 87; NAYS: 0
3RD READING: 2/24, YEAS: 98; NAYS: 1

TRANSMITTED TO SENATE: 2/24
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 3/2
HEARING: 3/6
REPORT: 3/17, BE CONCURRED IN, AS AMENDED
2ND READING: 3/24, BE CONCURRED IN
3RD READING: 3/26, YEAS: 46; NAYS: 0

RETURNED TO HOUSE WITH AMENDMENTS: 3/26
2ND READING: 4/8, YEAS: 89; NAYS: 2
3RD READING: 4/9, YEAS: 95; NAYS: 0

TRANSMITTED TO GOVERNOR: 4/13
ACTION: SIGNED, 4/18
CHAPTER 431

HB 685—LORY, BERG—TO REESTABLISH THE BOARD OF SANITARIANS UNDER EXISTING STATUTORY AUTHORITY AND RULES....
FISCAL NOTE: REQUIRED
INTRODUCED: 2/9

HOUSE BILL NO. 684

INTRODUCED BY LORY

rch

IN THE HOUSE

ril

bruary 9, 1981 — Introduced and referred to Committee on State Administration.

ril

bruary 11, 1981 — Fiscal note requested.

bruary 16, 1981 — Fiscal note returned.

Committee recommend bill do pass. Report adopted.

bruary 17, 1981 — Bill printed and placed on members' desks.

bruary 21, 1981 — Second reading, do pass.

bruary 23, 1981 — Considered correctly engrossed.

bruary 24, 1981 — Third reading, passed. Ayes, 98; Noes, 1. Transmitted to Senate.

IN THE SENATE

rch 2, 1981 — Introduced and referred to Committee on State Administration.

rch 17, 1981 — Committee recommend bill be concurred in as amended. Report adopted.

rch 23, 1981 — Motion pass consideration.

rch 24, 1981 — Second reading, concurred in.

rch 26, 1981 — Third reading, concurred in as amended. Ayes, 46; Noes, 0.

LC 2205/01

IN THE HOUSE

rch 27, 1981	Returned from Senate with amendments.
ril 8, 1981	Second reading, amendments concurred in.
ril 9, 1981	Third reading, amendments concurred in. Ayes, 95; Noes, 0. Sent to enrolling.
	Reported correctly enrolled.

LC 2205/01

HOUSE BILL NO. 684

INTRODUCED BY Levy

A BILL FOR AN ACT ENTITLED: "AN ACT TO TRANSFER THE LICENSING AUTHORITY OVER NEW MOTOR VEHICLE MANUFACTURERS, DISTRIBUTORS, AND IMPORTERS FROM THE DEPARTMENT OF BUSINESS REGULATION TO THE DIVISION OF MOTOR VEHICLES; AMENDING TITLE 61, CHAPTER 4, PART 2, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-4-201, MCA, is amended to read:

"61-4-201. Definitions. As used in this part, the following definitions apply:

(1) "Community" means the relevant market area of a franchise. For the purposes of this part, the relevant market area of a franchise is the county or counties in which the franchisee is located.

~~(2)--"Department"--means--the--department--of--business regulation.~~

~~(3)~~(2) "Distributor" or "wholesaler" means a person who sells or distributes new motor vehicles to new motor vehicle dealers in this state or who maintains distributor representatives in this state.

~~(4)~~(3) "Distributor branch" means a branch office maintained or availed of by a distributor or wholesaler for the sale of new motor vehicles to new motor vehicle dealers in this state for directing or supervising its representatives in this state.

(4) "Division" means the division of motor vehicles.

(5) "Factory branch" means a branch office maintained or availed of by a manufacturer for the sale of new motor vehicles to distributors or for the sale of new motor vehicles to new motor vehicle dealers in this state or for directing or supervising its representatives in this state.

(6) "Franchise" means a contract between or among two or more persons when all of the following conditions are included:

(a) a commercial relationship of definite duration or continuing indefinite duration is involved;

(b) the franchisee is granted the right to offer, sell, and service in this state new motor vehicles manufactured or distributed by the franchisor;

(c) the franchisee, as a separate business, constitutes a component of franchisor's distribution system; and

(d) the operation of the franchisee's business is substantially reliant on the franchisor for the continued supply of new motor vehicles, parts, and accessories.

(7) "Franchisee" means a person who receives new motor vehicles from the franchisor under a franchise and who

LC 2205/01

offers, sells, and services such new motor vehicles to and for the general public.

(8) "Franchisor" means a person who manufactures, imports, or distributes new motor vehicles and who may enter into a franchise.

(9) "Importer" means a person who transports or arranges for the transportation of a foreign manufactured new motor vehicle into the United States for sale in this state.

(10) "Manufacturer" means a person who manufactures or assembles new motor vehicles or who manufactures or installs on previously assembled truck chassis special bodies or equipment, which when installed form an integral part of the new motor vehicle and which constitutes a major manufacturing alteration, but does not include a person who installs a camper on a pickup truck.

(11) "New motor vehicle dealer" means a person who buys, sells, exchanges, or offers or attempts to negotiate a sale or exchange or any interest in or who is engaged in the business of selling new motor vehicles or used motor vehicles taken in trade on new motor vehicles."

NEW SECTION. Section 2. Functions transferred -- name change. The functions of the department of business regulation contained in Title 61, chapter 4, part 2, are transferred to the division of motor vehicles. Unless

inconsistent with this act, wherever the term "department", meaning department of business regulation, appears in Title 61, chapter 4, part 2, it is changed to "division", meaning division of motor vehicles. The code commissioner is authorized and instructed to change the word "department" to "division" in Title 61, chapter 4, part 2, in accordance with this act.

-End-

STATE OF MONTANA

REQUEST NO. 354-81

FISCAL NOTE

Form BD-15

In compliance with a written request received 2-11, 19 81, there is hereby submitted a Fiscal Note for House Bill 684 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION

House Bill 684 is an act to transfer the licensing authority over new motor vehicle manufactures, distributors, and importers from the Department of Business Regulations to the Division of Motor Vehicles; amending title 61, chapter 4, part 2, MCA.

ASSUMPTIONS

1. The provisions of this bill will be carried out as recommended by the Legislative Fiscal Analyst.
2. A hearings officer will be used for objections to discontinuance of a franchise.
3. Any increase in expenditures to the Department of Justice will be off set by a corresponding decrease in expenditures to the Department of Businesss Regulations.

FISCAL IMPACT

	FY 82	FY 83
Operating Expense Hearing Officer and related expenses	$5,000	$5,000

David M Lewis

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 2/17/81

STATE ADMINISTRATIO COMMITTEE

47 Legislature 2/7/81

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 680	REQUIRING THE LEGISLATURE TO CONVENE IN SPECIAL SESSION TO RECONSIDER ANY VETOED BILL THAT HAD BEEN APPROVED BY 2/3 OF MEMBERS PRESENT...	2/7	KEEDY	2/12	DO PASS	2/12/81
HB 682	TO ABOLISH THE ENVIRONMENTAL QUALITY COUNCIL...	2/7	KEMMIS	2/17/81 ~~2/12~~	TABLED INTERIM STUDY REQUESTED	2/19
HB 683	REVISE & CLARIFY LAWS RELATING TO BALLOT ISSUES; REQUIRING LEG. COUNCIL TO REVIEW ALL BALLOT ISSUES; SIMPLIFY LANG. REQUIRE ADDRESSES, APP. COMM...	2/7	FABREGA	2/13	DO PASS AS AMENDED	2/16
HB 657	PROVIDE THAT SECRETARY OF STATE SHALL BE EX OFFICIO COMMISSIONER OF CAMPAIGN FINANCES AND PRACTICES;	2/7	UNDERDAL	2/13	DO PASS	2/13
HB 663	SIMPLIFY, CLARIFY, MAKE UNIFORM ALL CENTRALIZE PROCUREMENT OF CONSTRUCTION, SUPPLIES & SERVICE FOR STATE AGENCIES IN A PROCUREMENT DIV...	2/7	MOORE	2/18	TABLED POSSIBLE INTERIM STUDY	2/19
HB 684	TO TRANSFER THE LICENSING AUTH. OVER NEW MOTOR VEH. MANUFACT. DISTR. & IMPORTERS FROM DEPT. BUS. REG. TO DIV. OF MOTOR VEHICLES....	2/9	LORY	2/16	DO PASS	2/16

2/2/81

STATE ADMINISTRATION COMMITTEE

NOTIFICATION SHEET

Bill #	Date Hearing	Committee Members	Sponsor	Chief Clerk		Received from Sgt. at Arms
HB 580	2/6	2/2	FEDA	2/2	DPAA	2/3
HB 573	2/10	2/6	NORDTVEDT	2/4	DP	2/3
HB 584	2/9	2/6	ELLISON	2/2	DP	2/3
HB 588	2/9	2/6	MUELLER	2/4	died in comm.	2/3
HB 593	2/10	2/6	GOULD	2/4	referred Highways	2/3
HB 608	2/10	2/6	JENSEN	2/6	DNP	2/3
HB 613	2/10	2/16	SCHULTZ	2/6	DP	2/3
HB 138	2/10		ELLERD		died in comm.	2/4 BACK IN COM.
SB 74	3/3	2/24	THOMAS	2/24	BCI	2/29
SB 100	3/3	2/24	THOMAS	2/24	BCI	2/29
HB 630	2/11	2/6	SALES	2/6	DP	2/5
HB 634	2/13	2/6	BENGSTON	2/6	moved H.S	2/5
HB 636	2/13	2/6	FEDA	2/6	DP	2/5
HB 637	2/10	2/6	ANDREASON	2/6	DPAA	2/5
HB 638	2/11	2/6	MENAHAN	2/6	died in comm.	2/5
SB 187	3/11/81	3/6	GRAHAM	3/6	BCI	2/5
HB 649	2/11		KEEDY	2/18	DNP	2/9
HJR 23	2/12	2/6	DONALDSON		DPAA	2/9
SB 135	3/10		REGAN		BNCI	2/9
HB 680	2/12	2/6	KEEDY		DP	2/9
HB 682	2/17		KEMMIS		TABLED	2/9
HB 683	2/13		FABREGA		DPAA	2/9
HB 684	2/16	2/13	LORY		DP	2/11
HB 685	2/16		LORY		DP	2/11
HB 687	2/12	2/6	KEEDY	2/6	DPAA	2/10
HB 693	2/16	2/13	FEDA		DP	2/11
HB 694	2/16	2/13	FEDA		DPAA	2/11

STATE ADMINISTRATION
FEBRUARY 16, 1981
RM 436

The meeting of the House State Administration Committee was called to order at 8:00 a.m. on Monday, February 16, 1981, with Chairman Jerry Feda presiding. All members were absent except Representatives Azzara and Kanduch who were absent.

Chairman Feda opened the meeting to a hearing on HB 717.

HOUSE BILL 717-SPONSOR, Representative Winslow, introduced this bill at the request of the Department of Professional and Occupational Licensing. This bill revises the laws relating to the licensing of dentists and dental hygienists. It eliminates the emergency fund used by the Board of Dentists to administer, police, and enforce the licensing law, permits the Board to send more than one delegate to the National Association meetings and increases the compensation for attending these meetings, grants rulemaking authority to the Board, and revises the procedures for licensing, disciplinary actions and examinations. Another provision in the bill prohibits a municipality or other political subdivision from imposing a license fee or tax on dental hygienists. (UPDATED AMENDMENTS ATTACHED-EXHIBIT 1)

PROPONENTS

ROBERT FRITZ, DDS, Montana State Board of Dentistry, stated that as an individual board member, he supports the amendments submitted by the executive committee of the Montana Dental Association. (SEE EXHIBIT 1). He stated, the Board has been considering rule changes in the areas mentioned in this amendment for some time. The proposed changes have been very emotional and divisive to the members of the Board. The Board has been noticeably split on some of these issues and I can see where the majority opinion of the Board could change at least two times a year with the appointment of a new Board member each April and with the changing of officers each July. Such inconsistency, he stated, cannot benefit the public which we serve as Montana's Board of Dentistry. I believe this amendment would eliminate this problem by letting the legislative process decide these issues when they should come up. Mr. Fritz submitted a statement of intent on Section 3. A copy is attached and is EXHIBIT 2 of the minutes.

DOUGLAS WOOD, representing himself, as a member of the Montana Board of Dentistry, stated that he supports the bill but opposes the amendment made by the Montana Dental Association. He stated that his opposition to the amendment is because of the following reasons:

HB 685 (cont.)

QUESTIONS BY THE COMMITTEE:

Spilker: Sanitarians are employed by the local government offices, what makes you think they would not hire qualified people?

Bartlett: This type of situation has happened in the past, they hire friends or relatives etc.

Spilker: They are held accountable by the local voters.

Bartlett: Yes, that is one reason the Board was created. The Department of Health and the Sanatarians in the past have not always agreed on the functions of the Board. The language has been changed and we have resolved our differences, this is why we can support the Board now.

McBride: The Department of Health seems to have all the control except for the licensing. Why can't they do that also.

Bartlett: With some changes in the laws this could happen but I am a great believer in the "peer system".

McBride: If about 90% of the sanitarians are/or could be exempt from licensing, what is the use of the Board?

Bartlett: I do not think they are all exempt. 92% are employed by state and local agencies but they are not all exempt.

Siecat: They do not have to be licensed unless the department requests that they are.

O'Connell: The Board is more knowledgeable than the local offices on these matters, is this not correct.

Anderson: Yes, the Board is composed of Sanitarians.

Representative Lory closed the hearing on HB 685.

HOUSE BILL 684-SPONSOR, Representative Lory, introduced this bill to the committee. Currently the Department of Business Regulation supervises, regulates, and licenses new motor vehicle dealers, manufacturers, importers, and distributors who operate businesses in Montana. This bill transfers this authority to the Division of Motor Vehicles with the Department of Justice and instructs the Code Commissioner to make the necessary reference changes in the statutes. Representative Lory said there is no opposition from either department.

HB 684 (cont.)

PROPONENTS

There were none present.

OPPONENTS

There were none present.

QUESTIONS BY THE COMMITTEE:

NONE

Representative Lory closed the hearing on House Bill 684.

HOUSE BILL 694-SPONSOR, Representative Feda, introduced this bill to the committee. This bill prevents a person residing in a television district from registering a motor vehicle until he pays the required tax for the television service unless he signs an affidavit stating that he does not use a television or FM radio within the district. Representative Feda said that they have a great problem collecting this fee in his area and this is an attempt to do something to make people pay. He also submitted an amendment to the bill. A copy is attached and is EXHIBIT 12 of the minutes.

PROPONENTS

There were none present.

OPPONENTS

There were none present.

QUESTIONS BY THE COMMITTEE:

Kropp: I understand your problem, we have the same problem in our area, but I do not think there is any way you can enforce this.

Holliday: If you do not utilize the translator but live in the district would you still have to pay.

Feda: The bill would exempt you if you have a direct hook-up.

Mueller: How will the county know who has paid the fee if some pay with their property tax and others do not.

HB 694 (cont.)

Feda: The county assessor will have a check list.

Representative Feda closed the hearing on HB 694.

EXECUTIVE SESSION

Representatives Azzara and Kanduch were absent.

HOUSE BILL 694 DO PASS AS AMENDED

Representative O'Connell moved the amendments. A vote was taken and carried unanimously.

Representative O'Connell made a DO PASS AS AMENDED motion.

Representative Spilker said that it would not be right to tell people they cannot license their vehicle until they pay their television bill.

A vote was taken on the motion and carried with 14 YES, 3 NO and 2 absent. Representatives Sales, Smith and Spilker voted no.

HOUSE BILL 693 DO PASS

Representative Mueller moved a DO PASS. Following discussion a vote was taken and carried with 15 YES, 2 NO and 2 absent. Representatives Spilker and McBride voted no.

HOUSE BILL 685 DO PASS

Representative Kropp moved a DO NOT PASS. Discussion on the motion followed. A roll call vote was taken and failed with 8 YES and 9 NO. A motion was made to reverse the vote. House Bill 685 DO PASS 9 YES and 8 NO.

HOUSE BILL 684 DO PASS

Representative Sales moved a DO PASS. Brief discussion followed. A vote was taken and carried unanimously with those present.

ROLL CALL

HOUSE STATE ADMINISTRATION COMMITTEE

47 LEGISLATIVE SESSION, 19 81

P= PRESENT
E= EXCUSED
L= LATE
A= ABSENT

Name	Date 1/28	1/29	1/30	2/2	2/3	2/4	2/5	2/6	2/9	2/10	2/11	2/12	2/13	2/16
AZZARA, JAMES	A	A	A	A	A	A	A	A	A	A	A	A	A	A
BRIGGS, HAROLD	P	P	P	P	P	L	P	L	P	P	P	P	P	P
DUSSAULT, ANN MARY	P	P	P	P	E	P	A	P	P	E	L	P	L	P
FEDA, G.C. (Chair.)	P	P	P	P	P	P	P	P	P	P	E	P	P	P
HANSON, BEN	P	P	E	P	P	P	L	P	P	P	P	P	P	P
HOLLIDAY, GAY	P	P	P	P	P	P	P	P	P	P	P	P	P	P
KANDUCH, JOE	E	P	P	P	P	L	P	P	P	P	P	P	P	P
KENNERLY, ROLAND	P	E	P	P	P	E	P	P	P	P	L	P	P	P
KROPP, PAUL	P	P	P	P	P	P	P	P	E	P	P	P	P	P
McBRIDE, KATHLEEN	P	P	P	P	P	P	P	P	P	P	P	P	P	P
MUELLER, GLENN	P	P	P	P	P	P	P	P	P	P	P	P	P	P
O'CONNELL, HELEN	E	E	E	E	P	P	P	A	P	L	P	E	E	P
PHILLIPS, JOHN	P	P	P	P	P	P	P	P	P	P	P	P	P	P
PISTORIA, PAUL	P	P	P	P	L	P	P	A	P	P	P	P	P	P
RYAN, JOHN	E	E	L	P	P	P	P	P	P	P	P	P	P	P
SALES, WALTER(V.C.)	P	P	P	P	P	P	P	P	P	P	P	P	P	P
SMITH, CARL	P	P	P	P	P	P	P	P	P	P	P	P	P	P
SPILKER, BOBBY	P	P	P	P	E	P	P	P	L	P	P	P	P	P
WINSLOW, CALVIN	P	P	P	P	P	P	P	P	A	P	P	P	P	P

ROLL CALL VOTE — STATE ADMINISTRATION HOUSE COMMITTEE

DATE

Motion	Date:2-16 No:HB 685 DNP	Date: 2-16 No: HB 694 DPAA	Date:2-16 No:HB 693 DP	Date:2-16 No:HB 684 DP	Date:2-16 No:HB 722 DNP	Date:2-16 No:HB 683 DPAA	Date: 2-16 No: HB 649 DP
AZZARA	ABSENT	ABSENT	ABSENT	ABSENT	ABSENT	ABSENT	proxy YES
BRIGGS	YES	YES	YES	YES	YES	YES	NO
DUSSAULT	NO	YES	YES	YES	NO	YES	EX
FEDA	YES	YES	YES	YES	YES	YES	NO
HANSON	NO	YES	YES	YES	YES	YES	NO
HOLLIDAY	NO	YES	YES	YES	YES	YES	NO
KANDUCH	ABSENT	ABSENT	ABSENT	ABSENT	ABSENT	ABSENT	YES
KENNERLY	NO	YES	YES	YES	YES	YES	YES
KROPP	YES	YES	YES	YES	YES	YES	NO
McBRIDE	YES	YES	NO	YES	EX	YES	YES
MUELLER	NO	YES	YES	YES	YES	YES	NO
O'CONNELL	NO	YES	YES	YES	YES	YES	YES
PHILLIPS	NO	YES	YES	YES	YES	YES	NO
PISTORIA	NO	YES	YES	YES	YES	YES	YES
RYAN	YES	YES	YES	YES	YES	YES	NO
SALES	YES	NO	YES	YES	YES	YES	NO
SMITH	YES	NO	YES	YES	YES	YES	NO
SPILKER	YES	NO	NO	YES	YES	YES	NO
WINSLOW	NO	YES	YES	YES	YES	YES	NO
VOTE	8-9 FAILS	14 - 3	15 - 2	UNAN.	15 - 1	UNAN.	6 -12 FAILS

VISITORS' REGISTER

HOUSE _____ COMMITTEE

BILL HB 1201 Date _____

SPONSOR _____

NAME	RESIDENCE	REPRESENTING	SUPPORT	OP
Earl Log	Missoula	Rep Dist 99	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

47th LEGISLATIVE SESSION

COMMITTEE ON STATE ADMINISTRATION

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO NOT DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
573	2/18	3/11						3/12	
580 584	48 3/3	4/10; 4/14 3/16					3/17	4/10; 4/14	
594	2/20		3/3						
613	2/16	3/18					3/18		
630	2/18	3/13					3/13		
636	2/21	3/6 3/10					3/10		
637	3/3	3/12					3/12		
657	2/21	3/13					3/17		
683	3/3	3/9						3/24	
684	3/3	3/6 & 10						3/10	
685	3/3	3/6					3/10		
717	3/3		3/5						
725	3/3	3/12						3/12	
766	3/3	3/20						3/24	
788	3/3	3/20					3/24		
789	3/3	3/20					3/20		

(Use Separate Sheet for Senate, House Bills, and Resolutions)

HOUSE BILL NO. 684

INTRODUCED BY Levy

A BILL FOR AN ACT ENTITLED: "AN ACT TO TRANSFER THE LICENSING AUTHORITY OVER NEW MOTOR VEHICLE MANUFACTURERS, DISTRIBUTORS, AND IMPORTERS FROM THE DEPARTMENT OF BUSINESS REGULATION TO THE DIVISION OF MOTOR VEHICLES; AMENDING TITLE 61, CHAPTER 4, PART 2, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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~~(2)--"Department"--means--the--department--of--business regulation.~~

~~(3)~~(2) "Distributor" or "wholesaler" means a person who sells or distributes new motor vehicles to new motor vehicle dealers in this state or who maintains distributor representatives in this state.

~~(4)~~(3) "Distributor branch" means a branch office maintained or availed of by a distributor or wholesaler for the sale of new motor vehicles to new motor vehicle dealers in this state for directing or supervising its representatives in this state.

(4) "Division" means the division of motor vehicles.

(5) "Factory branch" means a branch office maintained or availed of by a manufacturer for the sale of new motor vehicles to distributors or for the sale of new motor vehicles to new motor vehicle dealers in this state or for directing or supervising its representatives in this state.

(6) "Franchise" means a contract between or among two or more persons when all of the following conditions are included:

(a) a commercial relationship of definite duration or continuing indefinite duration is involved;

(b) the franchisee is granted the right to offer, sell, and service in this state new motor vehicles manufactured or distributed by the franchisor;

(c) the franchisee, as a separate business, constitutes a component of franchisor's distribution system; and

(d) the operation of the franchisee's business is substantially reliant on the franchisor for the continued supply of new motor vehicles, parts, and accessories.

(7) "Franchisee" means a person who receives new motor vehicles from the franchisor under a franchise and who

offers, sells, and services such new motor vehicles to and for the general public.

(8) "Franchisor" means a person who manufactures, imports, or distributes new motor vehicles and who may enter into a franchise.

(9) "Importer" means a person who transports or arranges for the transportation of a foreign manufactured new motor vehicle into the United States for sale in this state.

(10) "Manufacturer" means a person who manufactures or assembles new motor vehicles or who manufactures or installs on previously assembled truck chassis special bodies or equipment, which when installed form an integral part of the new motor vehicle and which constitutes a major manufacturing alteration, but does not include a person who installs a camper on a pickup truck.

(11) "New motor vehicle dealer" means a person who buys, sells, exchanges, or offers or attempts to negotiate a sale or exchange or any interest in or who is engaged in the business of selling new motor vehicles or used motor vehicles taken in trade on new motor vehicles."

NEW SECTION. Section 2. Functions transferred -- name change. The functions of the department of business regulation contained in Title 61, chapter 4, part 2, are transferred to the division of motor vehicles. Unless

inconsistent with this act, wherever the term "department", meaning department of business regulation, appears in Title 61, chapter 4, part 2, it is changed to "division", meaning division of motor vehicles. The code commissioner is authorized and instructed to change the word "department" to "division" in Title 61, chapter 4, part 2, in accordance with this act.

-End-

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

March 6, 1981

The Senate State Administration Committee was called to order by Senator Pete Story, Chairman, on the above date in room 442 of the State Capitol Building at 10 a.m.

ROLL CALL: All members of the committee were present, except Senator Kolstad.

CONSIDERATION OF HOUSE BILL 685.

AN ACT TO REESTABLISH THE BOARD OF SANITARIANS UNDER EXISTING STATUTORY AUTHORITY AND RULES; TO PROVIDE THAT ONE BOARD MEMBER SHALL BE FROM THE PUBLIC; TO ESTABLISH MINIMUM EDUCATIONAL STANDARDS; TO INCREASE THE RECIPROCITY AND RENEWAL FEE; TO PROVIDE FOR A BIENNIAL RENEWAL PERIOD; TO PROVIDE EXPANDED DISCIPLINARY GUIDELINES.

Representative Earl Lory, sponsor, says this bill reestablishes the Board of Sanitarians and went through the adverse audit report that had prompted the action. He summarized the bill to the committee.

PROPONENTS: Kenneth Read, Board of Sanitarians, enclosed testimony and read parts of it; Peter Frazier, President of Montana Environmental Health Association, enclosure 2; John Bartlett, Department of Health and Science; Curt Langendorff, Montana Restaurant Association.

OPPONENTS: None.

Questions: Senator Towe asked what the audit committee reported. Representative Lorysaid they recommended they sunset it.

CONSIDERATION OF HOUSE BILL 684:

AN ACT TO TRANSFER THE LICENSING AUTHORITY OVER NEW MOTOR VEHICLE MANUFACTURERS, DISTRIBUTORS, AND IMPORTERS FROM THE DEPARTMENT OF BUSINESS REGULATIOI TO THE DIVISION OF MOTOR VEHICLES.

Representative Earl Lory, sponsor, said this bill transfers the question of when one loses his franchize there must be a hearing; they recommend he go to the Department of Motor Vehicles

PROPONENTS: Larry Majerus, Motor Vehicle Administration, suggested an amendment that would require them to license only once.

Chairman Story put it into a subcommittee of himself.

OPPONENTS: None.

Questions; None.

The hearing was closed.

CONSIDERATION OF HOUSE BILL 636.

Representative Jerry Feda, sponsor, explained that the bill will add a public member to the Board of Massage Therapists; he mentioned that it was recommended to be sunsetted by the board.

PROPONENTS: Thomas Prewett, massage therapist, enclosed testimony; Ethel Gullickson, Thomas Reynolds, and Mary Schwind, all testified.

OPPONENTS: None.

Questions: Senator Towe requested a comment on the legislative audit; and Mr. Prewett said that for years they worked without a license and were offen ridiculed, now through licensing all are licensed massage therapists. He answered the question of the license fee--$25.00, and no licenses have ever been revoked Other questions by Senator Towe were the number of license applications in a year--answer 6, with one refusal. There had been action also in one place to eliminate it where there was abuse.

Senator Story made the point that if the audit committee did not get a handle on it, the county attorney could still do it.

Senator Towe pointed out they do not want to have unnecessary government.

Senator Johnson asked these question: how many--76; how long has there been licensing--since 1976; educational requirement--1000 hours. All answers were given by Mr. Prewett.

In closing Representative Feda said he would consider a deterrent and would want Senator Story to carry if it passes.

ROLL CALL

STATE ADMINISTRATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 3-6

NAME	PRESENT	ABSENT	EXCUSED
Senator Pete Story, Chairman	✓		
Senator Allen Kolstad, V. C.		✓	
Senator William Hafferman	✓		
Senator H. W. Hammond	✓		
Senator Jan Johnson	✓		
Senator Patrick Ryan	✓		
Senator Thomas Towe	✓		

Each day attach to minutes.

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

March 10,1981

The Senate State Administration Committee was called to order by Senator Pete Story, Chairman, on the above date in room 442 of the State Capitol Building at 10 a.m.

ROLL CALL: All members of the committee were there.

ACTION ON HOUSE BILL 38: Amendments were moved by Senator Towe; motion passed; he moved the bill DO PASS, AS AMENDED; motion carried unanimously. See standing committee report for the amendments.

ACTION ON HOUSE BILL 74: Amendments were made by Senator Towe with the consent of Mona Jamison, legal council for Governor Schwinden; motion carried. He moved the bill DO PASS, AS AMENDED; unanimous vote. Sen. Towe will carry it.

ACTION ON HOUSE BILL 161: Sen. Ryan moved DO NOT PASS; discussion with Sen. Ryan opposing a person being rewarded for doing his job. Roll call vote resulted in two to five; motion did not pass. There was discussion of an advisory council, and Chairman Story put the bill in a subcommittee of Senators Johnson, Hafferman, and Towe.

RECONSIDERATION OF ACTION ON HOUSE BILL 38: Staff man, John Hollow, brought up some amendments; Sen. Towe moved that the action be reconsidered; motion carried. New amendments were moved; passed; the bill was moved DO PASS, AS AMENDED. See standing committee report for the amendments.

ACTION ON HOUSE BILL 225: Sen. Hafferman moved DO PASS; withdrew the motion after discussion of an amendment of 2/3 majority; a straw vote was cast. On page 2, line 9 Sen. Towe moved an amendment to insert "that has passed each house by 2/3 majority". This passed with a no vote by Sen. Ryan. Sen. Towe moved the bill DO PASS, AS AMENDED; motion carried with dissention by Sen. Ryan. Sen. Kolstad will carry it.

ACTION ON HOUSE BILL 231: A vote had been cast on March 4, which resulted in a tie because Sen. Kolstad was absent. His vote on this date was No so the bill went out as a DO NOT PASS. See roll call vote on 3-4 and 3-10.

ACTION ON HOUSE BILL 291: Sen. Johnson moved the bill DO PASS, AS AMENDED. Discussion followed concerning the use of the words "reasonable and necessary". John Hollow, staff man, brought to the attention of the committee the statement of intent that page 2, line 11, following "department" an insertion should be made. Sen. Towe moved the amendment "in rules adopted for that purpose". The motion carried, and the bill carried with dissention by Sen. Ryan. See roll call vote.

ACTION ON HOUSE BILL 296: Sen. Towe moved DO PASS; motion carried. He will carry on the floor.

ACTION ON HOUSE BILL 302: There was discussion of section 6 and Sen. Ryan moved to table it; motion carried with a No vote by the chairman, Sen. Story.

ACTION ON HOUSE BILL 470: There was discussion of the bill with the advantages and disadvantages and possibly limiting it to cities and towns. Sen. Hammond moved DO NOT PASS; motion carried. He will carry the adverse report.

ACTION ON HOUSE BILL 481: Sen. Towe moved an amendment, which passed; he moved the bill DO PASS, AS AMENDED; majority passed it with no votes by Sen. Hafferman, Story, and Towe. Sen. Towe will carry it.

ACTION ON HOUSE BILL 545: See standing committee report for amendments which were moved by Sen. Towe, accepted; Sen. Johnson moved the bill DO PASS, AS AMENDED; motion carried.

ACTION ON HOUSE BILL 636: Sen. Ryan moved DO PASS; motion carried, see roll call vote. Sen. Story will carry on the floor.

ACTION ON HOUSE BILL 684: The amendments suggested by John Hollow were explained by Sen. Towe; discussion of moving the bill to Highways committee; Larry Majerus explained the purpose of the bill is being between the franchise and the dealer. He explained the amendment and the bill. Sen. Towe moved the amendment. Sen. Ryan asked if someone should have the opportunity to testify for or against, and the chairman said no. Sen. Towe moved the title and the new section to be amended; motion passed. He moved the bill DO PASS, AS AMENDED, motion carried with a no vote by Sen. Ryan.

ROLL CALL

STATE ADMINISTRATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 3-10-

NAME	PRESENT	ABSENT	EXCUSED
Senator Pete Story, Chairman	✓		
Senator Allen Kolstad, V. C.	✓		
Senator William Hafferman	✓		
Senator H. W. Hammond	✓		
Senator Jan Johnson	✓		
Senator Patrick Ryan	✓		
Senator Thomas Towe	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

March 10, 19 81

MR. PRESIDENT:

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 684

LORY, (TOWE)

respectfully report as follows: That HOUSE Bill No. 684,
third reading copy, be amended as follows:

1. Title, line 7.
Following: "VEHICLES;"
Insert: "AND TO REMOVE DUPLICATE LICENSING OF NEW MOTOR VEHICLE DEALERS;"

2. Title, line 8.
Following: "MCA"
Insert: "; REPEALING SECTION 61-4-211, MCA"

3. Page 4.
Following: line 7
Insert: (See attached)

(CONTINUED)

Chairman.

STATE PUB. CO.
Helena, Mont.

Section 1. Section 61-4-202, MCA, is amended to read:

"61-4-202. License requirements. (1) No new motor vehicle dealer, manufacturer, distributor, factory branch, or distributor branch may engage in business in Montana except in accordance with the requirements of this part. The provisions of this part do not apply to a public officer engaged in the discharge of his official duties or to a trustee, receiver, or other officer acting under the jurisdiction of a court; to financial institutions disposing of repossessed vehicles; or to a person disposing of his personal vehicle. The provisions of this part regulating and licensing new motor vehicle dealers, manufacturers, distributors, factory branches, distributor branches, and franchisors apply only to those new motor vehicle dealers, manufacturers, distributors, factory branches, distributor branches, and franchisors of motor vehicles as defined by this part.

(2) A ~~new-motor--vehicle--dealer--or--a~~ manufacturer, distributor, factory branch, distributor branch, importer, or franchisor transacting business within Montana by offering, selling, trading, consigning, or otherwise transferring a new motor vehicle to a new motor vehicle dealer must be licensed by the state of Montana. The department shall issue licenses to qualified applicants upon receipt of a license fee in the amount of $15 accompanied by the information required in this section.

(3) The following information, if applicable, shall be submitted by an applicant upon forms supplied by the department:

(a) the name and address of the applicant;

(b) the make and model of each new motor vehicle to be franchised;

(c) the name and address of each of the applicant's franchisees within the state; and

(d) the name and address of each factory branch, distributor branch, agent, or representative within the state.

(4) The license may be renewed each year if the applicant is in compliance with the provisions of this part, remits a renewal fee in the amount of $15, and notifies the department of any changes in the information previously supplied.

(5) No new motor vehicle may be sold in this state unless either the manufacturer on direct dealership of domestic vehicles, the importer of foreign manufactured vehicles on direct dealership, or the distributor on indirect dealerships of either domestic or foreign vehicles is licensed as provided in this part. Notwithstanding any other licensing provision contained in Montana law, every new motor vehicle dealer must ~~also~~ obtain a license under ~~this--part~~ part 1 of this chapter. The obtaining of a license under this part or Part 1 conclusively establishes that a new motor vehicle dealer, manufacturer, distributor, or importer is subject to the laws of this state regulating new motor vehicle dealers, manufacturers, importers, and distributors."

And, as so amended,
BE CONCURRED IN

90.

PETE STORY, Chairman

Section 4, Repealer. Section 61-4-211, MCA, is repealed."

AND, AS SO AMENDED,

BE CONCURRED IN

PETE STORY

Chairman.

STATE PUB. CO.
Helena, Mont.

March 17, 1981

SENATE STANDING COMMITTEE REPORT
(State Administration)

That House Bill No. 684 be amended as follows:

1. Title, line 7.
Following: "VEHICLES;"
Insert: "AND TO REMOVE DUPLICATE LICENSING OF NEW MOTOR VEHICLE DEALERS;"

2. Title, line 8.
Following: "MCA"
Insert: "; REPEALING SECTION 61-4-211, MCA"

3. Page 4.
Following: line 7
Insert: "Section 3. Section 61-4-202, MCA, is amended to read:

"61-4-202. License requirements. (1) No new motor vehicle dealer, manufacturer, distributor, factory branch, or distributor branch may engage in business in Montana except in accordance with the requirements of this part. The provisions of this part do not apply to a public officer engaged in the discharge of his official duties or to a trustee, receiver, or other officer acting under the jurisdiction of a court; to financial institutions disposing of repossessed vehicles; or to a person disposing of his personal vehicle. The provisions of this part regulating and licensing new motor vehicle dealers, manufacturers, distributors, factory branches, distributor branches, and franchisors apply only to those new motor vehicle dealers, manufacturers, distributors, factory branches, distributor branches, and franchisors of motor vehicles as defined by this part.

(2) A ~~new-motor-vehicle-dealer-or-a~~ manufacturer, distributor, factory branch, distributor branch, importer, or franchisor transacting business within Montana by offering, selling, trading, consigning, or otherwise transferring a new motor vehicle to a new motor vehicle dealer must be licensed by the state of Montana. The department shall issue licenses to qualified applicants upon receipt of a license fee in the amount of $15 accompanied by the information required in this section.

(3) The following information, if applicable, shall be submitted by an applicant upon forms supplied by the department:

(a) the name and address of the applicant;

(b) the make and model of each new motor vehicle to be franchised;

(c) the name and address of each of the applicant's franchisees within the state; and

(d) the name and address of each factory branch, distributor branch, agent, or representative within the state.

(4) The license may be renewed each year if the applicant is in compliance with the provisions of this part, remits a renewal fee in the amount of $15, and notifies the department of any changes in the information previously supplied.

(5) No new motor vehicle may be sold in this state unless either the manufacturer on direct dealership of domestic vehicles, the importer of foreign manufactured vehicles on direct dealership, or the distributor on indirect dealerships of either domestic or foreign vehicles is licensed as provided in this part. Notwithstanding any other licensing provision contained in Montana law, every new motor vehicle dealer must ~~also~~ obtain a license under ~~this--part~~ part 1 of this chapter. The obtaining of a license under this part or Part 1 conclusively establishes that a new motor vehicle dealer, manufacturer, distributor, or importer is subject to the laws of this state regulating new motor vehicle dealers, manufacturers, importers, and distributors."

Section 4. Repealer. Section 61-4-211, MCA, is repealed."

HOUSE BILL NO. 684

INTRODUCED BY LORY

A BILL FOR AN ACT ENTITLED: "AN ACT TO TRANSFER THE LICENSING AUTHORITY OVER NEW MOTOR VEHICLE MANUFACTURERS, DISTRIBUTORS, AND IMPORTERS FROM THE DEPARTMENT OF BUSINESS REGULATION TO THE DIVISION OF MOTOR VEHICLES; AND TO REMOVE DUPLICATE LICENSING OF NEW MOTOR VEHICLE DEALERS; AMENDING TITLE 61, CHAPTER 4, PART 2, MCA; REPEALING SECTION 61-4-211, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-4-201, MCA, is amended to read:

"61-4-201. Definitions. As used in this part, the following definitions apply:

(1) "Community" means the relevant market area of a franchise. For the purposes of this part, the relevant market area of a franchise is the county or counties in which the franchisee is located.

~~(2)--"Department"--means--the--department--of--business regulation.~~

~~(3)~~(2) "Distributor" or "wholesaler" means a person who sells or distributes new motor vehicles to new motor vehicle dealers in this state or who maintains distributor representatives in this state.

~~(4)~~(3) "Distributor branch" means a branch office maintained or availed of by a distributor or wholesaler for the sale of new motor vehicles to new motor vehicle dealers in this state for directing or supervising its representatives in this state.

(4) "Division" means the division of motor vehicles.

(5) "Factory branch" means a branch office maintained or availed of by a manufacturer for the sale of new motor vehicles to distributors or for the sale of new motor vehicles to new motor vehicle dealers in this state or for directing or supervising its representatives in this state.

(6) "Franchise" means a contract between or among two or more persons when all of the following conditions are included:

(a) a commercial relationship of definite duration or continuing indefinite duration is involved;

(b) the franchisee is granted the right to offer, sell, and service in this state new motor vehicles manufactured or distributed by the franchisor;

(c) the franchisee, as a separate business, constitutes a component of franchisor's distribution system; and

(d) the operation of the franchisee's business is substantially reliant on the franchisor for the continued supply of new motor vehicles, parts, and accessories.

REFERENCE BILL

(7) "Franchisee" means a person who receives new motor vehicles from the franchisor under a franchise and who offers, sells, and services such new motor vehicles to and for the general public.

(8) "Franchisor" means a person who manufactures, imports, or distributes new motor vehicles and who may enter into a franchise.

(9) "Importer" means a person who transports or arranges for the transportation of a foreign manufactured new motor vehicle into the United States for sale in this state.

(10) "Manufacturer" means a person who manufactures or assembles new motor vehicles or who manufactures or installs on previously assembled truck chassis special bodies or equipment, which when installed form an integral part of the new motor vehicle and which constitutes a major manufacturing alteration, but does not include a person who installs a camper on a pickup truck.

(11) "New motor vehicle dealer" means a person who buys, sells, exchanges, or offers or attempts to negotiate a sale or exchange or any interest in or who is engaged in the business of selling new motor vehicles or used motor vehicles taken in trade on new motor vehicles."

NEW SECTION. Section 2. Functions transferred -- name change. The functions of the department of business

regulation contained in Title 61, chapter 4, part 2, are transferred to the division of motor vehicles. Unless inconsistent with this act, wherever the term "department", meaning department of business regulation, appears in Title 61, chapter 4, part 2, it is changed to "division", meaning division of motor vehicles. The code commissioner is authorized and instructed to change the word "department" to "division" in Title 61, chapter 4, part 2, in accordance with this act.

SECTION 3. SECTION 61-4-202, MCA, IS AMENDED TO READ:

"61-4-202. License requirements. (1) No new motor vehicle dealer, manufacturer, distributor, factory branch, or distributor branch may engage in business in Montana except in accordance with the requirements of this part. The provisions of this part do not apply to a public officer engaged in the discharge of his official duties or to a trustee, receiver, or other officer acting under the jurisdiction of a court; to financial institutions disposing of repossessed vehicles; or to a person disposing of his personal vehicle. The provisions of this part regulating and licensing new motor vehicle dealers, manufacturers, distributors, factory branches, distributor branches, and franchisors apply only to those new motor vehicle dealers, manufacturers, distributors, factory branches, distributor branches, and franchisors of motor vehicles as defined by

this part.

(2) A ~~new-motor--vehicle--dealer--or--a~~ manufacturer, distributor, factory branch, distributor branch, importer, or franchisor transacting business within Montana by offering, selling, trading, consigning, or otherwise transferring a new motor vehicle to a new motor vehicle dealer must be licensed by the state of Montana. The department shall issue licenses to qualified applicants upon receipt of a license fee in the amount of $15 accompanied by the information required in this section.

(3) The following information, if applicable, shall be submitted by an applicant upon forms supplied by the department:

(a) the name and address of the applicant;

(b) the make and model of each new motor vehicle to be franchised;

(c) the name and address of each of the applicant's franchisees within the state; and

(d) the name and address of each factory branch, distributor branch, agent, or representative within the state.

(4) The license may be renewed each year if the applicant is in compliance with the provisions of this part, remits a renewal fee in the amount of $15, and notifies the department of any changes in the information previously

supplied.

(5) No new motor vehicle may be sold in this state unless either the manufacturer on direct dealership of domestic vehicles, the importer of foreign manufactured vehicles on direct dealership, or the distributor on indirect dealerships of either domestic or foreign vehicles is licensed as provided in this part. Notwithstanding any other licensing provision contained in Montana law, every new motor vehicle dealer must ~~also~~ obtain a license under ~~this~~ part 1 of this chapter. The obtaining of a license under this part or part 1 conclusively establishes that a new motor vehicle dealer, manufacturer, distributor, or importer is subject to the laws of this state regulating new motor vehicle dealers, manufacturers, importers, and distributors."

SECTION 4. REPEALER. SECTION 61-4-211, MCA, IS REPEALED.

-End-